REMARKS

1. <u>Present Status of Patent Application</u>

This is a full and timely response to the outstanding non-final Office Action mailed September 18, 2007. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

2. <u>Telephone Interview Summary</u>

Applicant first wishes to express his sincere appreciation for the time that Examiner Lai spent with Applicant's Attorney, Mr. Charles W. Griggers, during a telephone discussion on December 17, 2007 regarding the outstanding Office Action. During the discussions, proposed arguments and amendments were discussed regarding the outstanding rejection (which are contained herein). The Examiner indicated that the proposed arguments and amendments were potentially beneficial. Accordingly, Applicant respectfully requests the Examiner to consider the present response.

3. <u>Response to Rejections of Claims under 35 U.S.C. § 101</u>

Claims 27-39 have been rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Independent claim 27 has been rewritten to recite that a computer readable storage which is statutory subject matter. Accordingly, withdrawal of the rejection of claims 27-39 is respectfully requested.

4. <u>Response to Rejections of Claims under 35 U.S.C. § 102(e)</u>

Claims 1, 14, and 27 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Bahadiroglu* (U.S. Patent No. 7,012,893). For a proper rejection of a claim under 35 U.S.C. § 102, the cited reference must disclose all features of the claim. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

a. Claim 1

As provided in independent claim 1, Applicant claims:

> A file transfer system, comprising:
> an originating file transfer host, comprising:
> **a script server operable to receive a file and a script associated with the file from at least one remote terminal, interpret the script, and transfer the script and the file; and**
> **an originating file transfer server operable to receive the script and the file from the script server and transfer the file to a terminating file transfer server in accordance with the script.**

(Emphasis added).

Claim 1 is patentable over *Bahadiroglu* for at least the reason that *Bahadiroglu* fails to teach or suggest at least "a script server operable to receive a file and a script associated with the file from at least one remote terminal, interpret the script, and transfer the script and the file; and an originating file transfer server operable to receive the script and the file from the script server and transfer the file to a terminating file transfer server in accordance with the script," as emphasized above.

For example, *Bahadiroglu* describes a sending node that determines current network conditions by transmitting a sequence of monitor packets to a receiving node, where the receiving node reflects monitor packets back from to the sending node. The sending node extracts characteristics from the returned packets that represent the current network conditions. *See* col. 29, lines 21-28. To extract the current network conditions, *Bahadiroglu* discloses that the sending node uses a script file or script files to implement the processes used. *See* col. 13, lines 27-61 and cols. 27-28, lines 64-14. As such, *Bahadiroglu* does not disclose that a script is associated with a file received at a remote terminal or transfer a file in accordance with a script that is received from a script server, among other features. For at least this reason, *Bahadiroglu* fails to teach or suggest at least "a script server operable to receive a file and a script associated with the file from at least one remote terminal, interpret the script, and transfer the script and the file; and an originating file transfer server operable to receive the script and the file from the script server and transfer the file to a terminating file transfer server in accordance with the script," as recited in claim 1.

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Hence, claim 1 is not anticipated by *Bahadiroglu*, and the rejection should be withdrawn.

b. Claim 14

As provided in independent claim 14, Applicant claims:

A method of bulk file transfer, comprising:
receiving a script and at least one file associated with the script at a script server of a host;
communicating said at least one file to a originating file transfer server of a host; and
transferring said at least one file to a terminating file transfer server in accordance with the script associated with said at least one file.

(Emphasis added).

Claim 14 is patentable over *Bahadiroglu* for at least the reason that *Bahadiroglu* fails to teach or suggest at least "receiving a script and at least one file associated with the script at a script server of a host; communicating said at least one file to a originating file transfer server of a host; and transferring said at least one file to a terminating file transfer server in accordance with the script associated with said at least one file," as emphasized above.

For example, *Bahadiroglu* describes a sending node that determines current network conditions by transmitting a sequence of monitor packets to a receiving node, where the receiving node reflects monitor packets back from to the sending node. The sending node extracts characteristics from the returned packets that represent the current network conditions. *See* col. 29, lines 21-28. To extract the current network conditions, *Bahadiroglu* discloses that the sending node uses a script file or script files to implement the processes used. *See* col. 13, lines 27-61 and cols. 27-28, lines 64-14. As such, *Bahadiroglu* does not disclose that a script is associated with a file received at a remote terminal or transfer a file in accordance with a script that is received from a script server, among other features. For at least this reason, *Bahadiroglu* fails to teach or suggest at least "receiving a script and at least one file associated with the script at a script server of a host; communicating said at least one file to a originating file transfer server of a host; and transferring said at least one file to a terminating file transfer

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server in accordance with the script associated with said at least one file," as recited in claim 14.

Hence, claim 14 is not anticipated by *Bahadiroglu*, and the rejection should be withdrawn.

c. Claim 27

As provided in independent claim 27, Applicant claims:

> A computer readable medium having a program for bulk file transfer, the program being embodied on a tangible medium and operable to cause a computer to perform:
> ***receiving a script and at least one file associated with the script at a script server of a host;***
> ***communicating said at least one file to a originating file transfer server of a host; and***
> ***transferring said at least one file to a terminating file transfer server in accordance with the script associated with said at least one file.***

(Emphasis added).

Claim 27 is patentable over *Bahadiroglu* for at least the reason that *Bahadiroglu* fails to teach or suggest at least "receiving a script and at least one file associated with the script at a script server of a host; communicating said at least one file to a originating file transfer server of a host; and transferring said at least one file to a terminating file transfer server in accordance with the script associated with said at least one file," as emphasized above.

For example, *Bahadiroglu* describes a sending node that determines current network conditions by transmitting a sequence of monitor packets to a receiving node, where the receiving node reflects monitor packets back from to the sending node. The sending node extracts characteristics from the returned packets that represent the current network conditions. *See* col. 29, lines 21-28. To extract the current network conditions, *Bahadiroglu* discloses that the sending node uses a script file or script files to implement the processes used. *See* col. 13, lines 27-61 and cols. 27-28, lines 64-14. As such, *Bahadiroglu* does not disclose that a script is associated with a file received at a remote terminal or transfer a file in accordance with a script that is received from a

script server, among other features. For at least this reason, *Bahadiroglu* fails to teach or suggest at least "receiving a script and at least one file associated with the script at a script server of a host; communicating said at least one file to a originating file transfer server of a host; and transferring said at least one file to a terminating file transfer server in accordance with the script associated with said at least one file," as recited in claim 27.

Hence, claim 27 is not anticipated by *Bahadiroglu*, and the rejection should be withdrawn.

5.   Response to Rejections of Claims under 35 U.S.C. § 103(a)

Claims 2, 5-6, 15, 17-18, 28, and 30-31 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Bahadiroglu* in view of *Swartz* (U.S. Patent No. 6,961,778 B2). Claims 3-4, 7-9, 16, 19-22, 29, and 32-35 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Bahadiroglu*. Claims 10-13, 23-26, and 36-39 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Bahadiroglu* in view of *Postel* (RFC 959, "File Transfer Protocol (FTP)," October 1985). Claims 12-13, 25-26, and 38-39 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Bahadiroglu* in view of *Postel* in further view of *Wei* (U.S. Patent Publication No. 2002/0087642 A1).

a.   Claims 2-13

For at least the reasons given above, independent claim 1 is allowable over *Bahadiroglu*. Since claims 2-13 depend from claim 1 and recite additional features, claims 2-13 are allowable as a matter of law over the cited art. Further, the cited art of *Swartz*, *Postel*, and *Wei* fails to remedy the deficiencies of the *Bahadiroglu* reference.

b.   Claims 15-26

For at least the reasons given above, independent claim 14 is allowable over *Bahadiroglu*. Since claims 15-26 depend from claim 14 and recite additional features, claims 15-26 are allowable as a matter of law over the cited art. Further, the cited art of *Swartz*, *Postel*, and *Wei* fails to remedy the deficiencies of the *Bahadiroglu* reference.

c. Claims 28-39

For at least the reasons given above, independent claim 27 is allowable over *Bahadiroglu*. Since claims 28-39 depend from claim 27 and recite additional features, claims 28-39 are allowable as a matter of law over the cited art. Further, the cited art of *Swartz*, *Postel*, and *Wei* fails to remedy the deficiencies of the *Bahadiroglu* reference.

6.   Response to Findings of Official Notice

Applicant respectfully traverses each of the findings of Official Notice with respect to claims 3-4, 7-9, 16, 19-22, 29, and 32-35. With regard to claim 3, a specific or particular reason why the finding of Official Notice is improper is that claim 3 recites "wherein the terminating file transfer server is the transfer point from the originating file transfer server to a receiving computer" and the Office Action makes Official Notice of the term "transfer point." As such, it has not been established that the features "wherein the terminating file transfer server is the transfer point from the originating file transfer server to a receiving computer" are capable of instant and unquestionable demonstration as being well-known. As another example, claim 4 recites "a private connection bus operable to transmit information between the script server and the originating file transfer server " and the Office Action makes Official Notice of the term "private connection bus." As such, it has not been established that the features of "a private connection bus operable to transmit information between the script server and the originating file transfer server" are capable of instant and unquestionable demonstration as being well-known. Claims 16, 20-22, 29, and 33-35 also refer to private connection features that have not been established to be well known.

Further, claim 7 recites "wherein the script server is a C language software application on the host system" and the Office Action makes Official Notice that C language is well-known for writing scripts. As such, it has not been established that the features of the claimed script server "wherein the script server is a C language software application on the host system" are capable of instant and unquestionable demonstration as being well-known. Claims 8-9, 19, and 32 also refer to C language features that have not been established to be well known.

Per MPEP 2144.03(A), "It would <u>not</u> be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Also, per MPEP 2144.03(B), "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge."

As specific factual findings predicated on sound technical and scientific reasoning in support of the conclusion of common knowledge are not provided in the Office Action, the Official Notice and the rejections based upon this finding should be withdrawn. Further, under 37 CFR § 1.104(d)(2), if the rejections are based on facts within the personal knowledge of the examiner, "the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the applicant and other persons." Therefore, if this rejection is maintained, Applicant respectfully requests that document(s) be provided as support.

CONCLUSION

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. In addition, Applicant reserves the right to address any comments made in the Office Action that were not specifically addressed herein. Thus, such comments should not be deemed admitted by the Applicant. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

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